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SUBJECT: REPORT ON THE CRIMINAL JUSTICE AND
CORRECTIONAL SYSTEM IN PARAGUAY

11. Summary: Vice-Consul interviewed four individuals working in Paraguay's correctional system to obtain information on prisons and the criminal justice system. There are 13 correctional facilities in Paraguay housing approximately 5,000 inmates. Jails are overcrowded and inmates live in squalid, dangerous conditions. 383 of these inmates are foreign nationals although none are American citizens. Procedures for notifying Embassies when foreign nationals are arrested are in place although their effectiveness outside of the capital city is unknown. End Summary.

INTRODUCTION

12. This report contains information obtained from interviews conducted during March, April and May of 2006 with four individuals working in the correctional system in Paraguay. The individuals interviewed are as follows:

Michael Lynch, member of Hermanos Cristianos missionary group, Irish national who has been in Paraguay for 20 years working as a consultant in the correctional system

Teofilo Baez, director of Tacumbu, Paraguay's largest correctional facility

Mercedes Isidro Ruiz Diaz, director of the youth correctional facility

Trifilo Zaracho, Director of Penal Institutions (Director de Instituciones Penales)

FACILITIES IN PARAGUAY

13. There are 13 jail facilities in Paraguay that house approximately 5,000 inmates. In Asuncion and Ciudad del Este there are separate jails for men and women. In Encarnacion, Concepcion, San Pedro, Misiones, Villarica, Pedro Juan Caballero, Coronel Oveido and Emboscada one facility houses both men and women. Emboscada is the maximum security facility. There is one additional facility for male juveniles in Itaua. Tacumbu, the jail for males in Asuncion, is by far the largest facility and houses approximately 3,200 inmates. The facility in Ciudad

del Este is the second-largest and houses 700 inmates. El Buen Pastor, the women's jail in Asuncion, houses approximately 200 female offenders.

DIRECTORATE OF PENAL INSTITUTIONS (DIRECCION DE INSTITUCIONES PENALES)

¶4. The Directorate of Penal Institutions is responsible for oversight of all of the facilities. The Directorate is a division of the Vice-Ministry of Justice (Vice-Ministerio de Justicia), which is in turn a part of the Ministry of Justice and Labor (Ministerio de Justicia y Trabajo). The position of Director of Penal Institutions is a political appointment. Currently, Mr. Teofilo Zaracho, a retired policeman, is the appointee. Mr. Zaracho has participated in several training programs at the FBI Academy in Quantico, Virginia. These trips were sponsored by the Embassy RSO office.

¶5. Mr. Zaracho stated that the Directorate faces two primary problems. The first is overcrowding. Tacumbu, which was originally designed for 1,000 inmates, now houses 3,200. The jail in Ciudad del Este was designed for 300 but now houses 700. The second is lack of compliance with the International Declaration of Prisoner's Rights. This declaration mandates that pre-trial detainees be kept separate from inmates who have already been tried and sentenced. As pre-trial detainees have not been convicted of any crime and in most countries are innocent until proven guilty, their custody needs and rights are somewhat different from individuals

who have been convicted of crimes. In the United States, this distinction constitutes the difference between prisons (where sentenced inmates are housed) and jails or detention facilities (where inmates are kept in pre-trial confinement or where inmates sentenced to less than one year are housed). In Paraguay, arrestees awaiting the outcome of their legal processes are housed in the same facilities as those who have already been found guilty and are serving their sentences. In Tacumbu there are only 784 sentenced inmates out of a total of 3,168. The remaining 2,384 are detainees awaiting the outcomes of their legal proceedings. (From this it can be inferred that the majority of those who are formally tried are not eventually sentenced to prison time.)

¶6. Mr. Zaracho informed me that the Directorate is trying to resolve both of these issues with the construction of a new facility behind Tacumbu that will house approximately 280 sentenced inmates. There will be a work program associated with this new wing in which inmates can learn skills and also save money so that they are not released without any financial resources. The Directorate is also constructing a new facility in San Pedro. Both of these construction projects have been funded and are currently underway.

CONDITIONS IN FACILITIES

¶7. The overcrowding mentioned by Mr. Zaracho is responsible for some of the wretched conditions described by Michael Lynch, the Irish missionary. He states that the conditions are horrendous, particularly at Tacumbu. Inmates sleep in the halls on the floor with no mattresses. The guards do not protect the inmates from each other and there is no protective segregation of more vulnerable inmates. The only way that an inmate can obtain some level of security is by paying the guards. According to Lynch, there are regularly violent confrontations and murders in Tacumbu that are never reported in the press.

18. Lynch did say that the conditions at the facility for juveniles are substantially better. There are currently 150 male juveniles housed at the Educational Center (Centro Educacional) in Itagua, located approximately 45 minutes from Asuncion. The director of this institution is proud of his facility and described a rehabilitation program and conditions that are in strict compliance with the Hague Convention on Children's Rights. The discrepancy in the treatment of juvenile offenders and adult offenders is likely due to cultural factors in Paraguay, which define juvenile offenders as salvageable, while tending to view adult offenders as beyond hope. The maximum sentence for minors in Paraguay is 8 years. If the minor turns 18 while serving his sentence and has behaved well, he serves the remainder of his time at the youth facility. If he has been problematic, he is transferred to Tacumbu. Supervision and oversight of the juvenile correctional system is handled by a Directorate within the Vice-Ministry of Justice dedicated exclusively to juveniles.

FROM ARREST TO CONFINEMENT

19. When an individual is arrested, s/he is taken to the police station closest to the location where s/he was arrested. The police station has 6 hours to notify the prosecutor of the arrest. The prosecutor then has another 18 hours during which to decide whether to prosecute the arrestee. If s/he decides to prosecute the case, there is a formal indictment within 24 hours in front of a judge who either affirms or denies the prosecutor's decision. If the individual is not a flight risk and the crime

was not severe, s/he can be sent home to await his/her trial. If the judge decides that the arrestee should remain in custody, s/he is sent to the facility closest to the arrest site. The police department decides placement at this stage. The arrestee can remain at the police station for a maximum of 11 days prior to placement in a formal detention facility. According to Mr. Lynch, those able to pay the police officers generally stay at the police station for longer than those without funds, who are quickly transferred. Mr. Lynch stated that the conditions at the police stations are just as miserable as those at the institutions, however, while at the police station, the arrestee does not have to contend with other prisoners.

FROM CONFINEMENT TO TRIAL TO SENTENCING

10. After an individual is indicted, the prosecutor is given six months during which to complete the investigation and develop the evidence for trial. Extensions can be granted but are not common. If the defendant is convicted, the judge imposes a sentence and determines where s/he should be confined. This usually coincides with the facility in which s/he is currently being held, although exceptions can be made for security reasons or on humanitarian grounds. The maximum sentence in Paraguay is 25 years, however a recently passed law in response to a rash of kidnappings stipulates that kidnappers can be sentenced to another 10 years in addition to the standard maximum of 25. After serving 50% of their sentence, the inmate can request a pardon. Whether they are granted this pardon usually depends on the gravity of the crime. If s/he is not pardoned, s/he is eligible for parole after serving 75% of his/her sentence. Whether parole is granted is determined primarily by the person's conduct within the institution. However, in order to qualify for either a pardon or parole, the inmate must have strong links to and roots in Paraguay as s/he must remain in the country through

the expiration of their sentence. This requirement would make it difficult for American citizen inmates to obtain relief unless they had been permanent residents of Paraguay prior to their arrest.

NOTIFICATION OF EMBASSIES

¶11. The primary responsibility for notifying an Embassy when a foreign national is arrested lies with the police stations. As this does not always happen, the detention facilities are responsible for confirming that notification has taken place. Mr. Zaracho and Mr. Baez both indicated that as there are a relatively large number of foreign nationals in the correctional system in Paraguay, primarily Brazilians, Argentines and Bolivians, this notification system is relatively well-developed and functions efficiently.

¶12. There are currently 383 foreign nationals in custody in Paraguay, 156 of whom are held at Tacumbu. Ciudad del Este, Pedro Juan Caballero and el Buen Pastor also house significant numbers of foreign nationals. To Post's knowledge, none of the foreign nationals are American citizens. At Tacumbu there is an intake process during which the arrestee is assessed and a brief medical exam is given. At this point, the staff member conducting the assessment asks if he is a citizen of any country other than Paraguay. If he is and indicates that his Embassy has not yet been contacted, the Directorate of Penal Institutions is notified who then notifies the appropriate Embassy. It appears that this procedure may not be as well-established in facilities in other parts of the country.

¶13. Comment: Although Paraguay's correctional system is woefully underfunded and conditions for inmates are deplorable, government authorities do appear to be attempting to address some of its shortcomings. Post has noticed that, even in Asuncion, notification does not always occur in a timely manner. Outreach to police stations in the capital city and to the detention facilities outside of Asuncion may be helpful in ameliorating this situation. Administrative staff appear to be favorably disposed to the U.S. and would likely assist in any such efforts.

JOHNSON